

1 presented with another promissory note that was
2 signed by me and Marfisi for 19,000.

3 Q. You went to see Metcalf?

4 A. Yes, whatever his lawyer's name is.

5 Q. Meckstroth?

6 A. Yeah.

7 Q. When was this?

8 A. I don't remember.

9 Q. Was it the same day as the
10 closing?

11 A. No.

12 Q. Was it the same month?

13 A. No, months later.

14 Q. Months later?

15 A. Yeah.

16 Q. You went to Mr. Meckstroth's office?

17 A. Yes.

18 Q. And you said something about a note
19 signed by Marfisi?

20 A. Yes.

21 Q. Explain that to me.

22 A. It was a promissory note that was
23 presented to me.

24 Q. Mr. Marfisi gave you a promissory
25 note?

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1 A. (Witness nods head.)

2 Q. She has to take down your answer.

3 MR. SCHWANTES: You have to
4 answer.

5 THE WITNESS: Yes.

6 BY MR. LABER:

7 Q. And that was for \$19,000?

8 A. Yes.

9 Q. And was that in exchange for Mr.
10 Bigelow's note to you?

11 A. I don't understand what you are
12 saying.

13 Q. Did you accept Mr. Marfisi's note as
14 satisfaction of Mr. Bigelow's note, as payment
15 of Mr. Bigelow's note?

16 A. No.

17 Q. So Mr. Marfisi was giving you
18 \$19,000 and Mr. Bigelow was giving you \$19,000?

19 A. No.

20 Q. Why was Mr. Marfisi giving you a
21 promissory note for \$19,000 then?

22 A. Because I was under the, for some
23 reason he was under the impression that the
24 19,000 was going to him and that he would pay
25 me.

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1 Q. I'm sorry, you lost me on the
2 pronouns. He being who?

3 A. Marfisi.

4 Q. Marfisi was under the impression
5 that \$19,000 promissory note from Mr. Bigelow
6 was going to him?

7 A. (Witness nods head.)

8 Q. Yes?

9 A. Yes.

10 Q. And then that he would pay you that
11 \$19,000?

12 A. Yes.

13 Q. And then you wrote on Mr. Bigelow's
14 promissory note at that time, paid in full?

15 A. No.

16 MR. SCHWANTES: Chris, whenever
17 you get to a convenient stopping point I'm
18 going to need to take a break.

19 MR. LABER: Let's take a break.

20 (WHEREUPON, a recess was taken.)

21 (WHEREUPON, Plaintiff's Exhibit
22 2 was marked for identification.)

23 BY MR. LABER:

24 Q. Showing you what's been marked as
25 Plaintiff's Exhibit 2, do you recognize that?

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1 A. Yes.

2 Q. And what is that?

3 A. It's a promissory note.

4 Q. And in particular is that a
5 promissory note from Mr. Bigelow to you in the
6 amount of \$19,000?

7 A. Yes.

8 Q. Does that bear the date of 27th of
9 January of 1998?

10 A. Yes.

11 Q. That would have been the date that
12 you received the promissory note for \$19,000
13 from Mr. Bigelow?

14 A. Yes.

15 Q. Does that look like the promissory
16 note that you received on the closing on the
17 27th?

18 A. Yes.

19 Q. And written on there is paid in
20 full; is that correct, is that right?

21 A. Yes.

22 Q. And underneath that is a signature?

23 A. Yes.

24 Q. Whose signature is that?

25 A. That's my signature.

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1 Q. And when did you sign paid in full
2 on that document?

3 A. I have no idea.

4 Q. But you did sign paid in full on
5 that document?

6 A. I signed it, I did not write paid in
7 full.

8 Q. Paid in full was written above that
9 and then you signed it?

10 A. No.

11 Q. You are saying that someone wrote
12 paid in full above that when you signed it?

13 A. When I signed this, paid in full was
14 not on there.

15 Q. What was the purpose in signing
16 that?

17 A. I was told to sign it. I signed
18 it. I was told that I would receive from
19 Bigelow \$19,000.

20 Q. So you signed that on the date of
21 closing?

22 A. And I signed it, paid in full was
23 not on there.

24 Q. I'm asking you when you signed it,
25 Ms. Bryant?

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1 A. I don't exactly remember the date
2 that I signed this.

3 Q. Did you sign it at closing?

4 A. I might have signed it at the
5 closing date, but I did not write paid in full
6 on there. Paid in full was not on there.

7 Q. I'm sorry, you say you might have
8 signed it on the closing date?

9 A. I might have.

10 Q. Would there have been some other
11 person in possession of the note when you
12 signed it?

13 A. I have a copy of it at home.

14 Q. Is it marked with your signature on
15 it?

16 A. It might be, it might not be, I
17 don't know. I don't remember. I don't
18 remember if this is the one -- Marfisi had gave
19 me a paper to sign and this, with something
20 else over the top of it and I signed it but I
21 did not sign anything paid in full.

22 Q. So you are saying Marfisi tricked
23 you in signing this as if it was something
24 else?

25 A. Yes.

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1 Q. So when you said before that you
2 might have signed it at the closing or some
3 later date, then that was incorrect?

4 A. Yes.

5 Q. Then why did you say that?

6 A. I'm trying to remember if it was on
7 the closing, I'm trying to see mine, I have a
8 copy of this and I'm trying to see in my mind,
9 in my head to see if my signature is on it and
10 I don't think I signed it. I think I just
11 received it from him, but I can't place whether
12 I signed it or not. I might have, but I did
13 not sign anything paid in full on it, I know
14 that.

15 Q. Now, you say you received another
16 note from Mr. Marfisi for \$19,000?

17 A. I didn't say I received it, I told
18 you that I was showed one.

19 Q. You were showed a promissory note --

20 A. A promissory note that I had signed
21 that the money went to Marfisi, that he would
22 pay me.

23 Q. That Marfisi would pay you the
24 \$19,000 instead of Mr. Bigelow?

25 A. Yes.

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1 Q. And you signed that piece of
2 paper?

3 A. I do not remember signing it. I
4 might have, I don't remember. I told you,
5 that's all I remember.

6 Q. Did you agree to have Mr. Marfisi
7 pay you instead of Mr. Bigelow?

8 A. No, I did not.

9 Q. You did not.

10 (WHEREUPON, Plaintiff's Exhibit
11 3 was marked for identification.)

12 BY MR. LABER:

13 Q. Showing you what's been marked as
14 Exhibit No. 3, can you identify that?

15 A. This is the paper that is releasing
16 Bigelow for the 19,000 and that I owe \$600 in
17 rent.

18 Q. Now, if you look down at
19 paragraph --

20 A. And he gave me a check for 2000.

21 Q. Look down at paragraph three. Can
22 you read paragraph three for me?

23 A. The parties agree to enter into a
24 lease agreement --

25 Q. No, Whereas Bigelow's

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1 responsibility.

2 MR. SCHWANTES: He's talking
3 about here. (Indicating.)

4 BY MR. LABER:

5 Q. Under said promissory note has been
6 previously transferred to John Marfisi?

7 A. And the original promissory note was
8 marked paid in full.

9 Q. Original promissory note was marked
10 paid in full and you signed off on this
11 document No. 3; is that correct?

12 A. Yes.

13 Q. And that's your signature on the
14 second page of this document?

15 A. Yes.

16 Q. And did it say that at the time you
17 said it, at the time that you wrote it, at the
18 time that you signed it, did it have that
19 sentence in it at the time that you signed this
20 document entitled release?

21 A. Yes.

22 Q. After you signed this document,
23 well, was that signed in Mr. Meckstroth's
24 office?

25 A. Yes.

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1 Q. Did Mr. Meckstroth prepare that to
2 your knowledge?

3 A. Yes.

4 Q. Did you have any question of Mr.
5 Meckstroth before you signed off on that?

6 A. Yes.

7 Q. What was the question?

8 A. Why my money was given to Marfisi
9 without my knowledge.

10 Q. Without your knowledge?

11 A. Yes.

12 Q. You were talking about a promissory
13 note from Marfisi to you?

14 A. I was talking about I was supposed
15 to receive the 19,000, okay? It was given to
16 Marfisi. Nobody informed me that the check was
17 ready or that was transferred over to Marfisi.

18 Q. Then what was the occasion that you
19 were shown the promissory note from Marfisi to
20 you that you say you signed off on?

21 A. I signed a paper, I didn't know it
22 was a promissory note to Marfisi. I said it
23 was covered with something. It was something
24 about a house because we had talked about a lot
25 of different things. We had talked about

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1 trying to get a house to open up a daycare
2 center and everything, but it was not about me
3 giving him my money because I didn't know it
4 was paid to him.

5 Q. We being you and Mr. Marfisi?

6 A. Yes.

7 Q. So you and Mr. Marfisi discussed
8 different ways of investing your \$19,000?

9 A. Yes.

10 Q. Mr. Bigelow wasn't in on that
11 conversation, was he?

12 A. No.

13 Q. How many times did you and Mr.
14 Marfisi discuss how to invest the \$19,000?

15 A. The first time that we discussed it
16 we were in the office and Pete was in there --

17 Q. We were at the what?

18 A. We were at the lawyer's office and I
19 talked about investing it. I said, I would,
20 you know, let him invest my money.

21 Q. Him --

22 A. Marfisi invest my money, okay, but I
23 did not say turn my check over to him.

24 Q. And so you discussed with Mr.
25 Marfisi that one occasion. What other

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1 occasions did you discuss Mr. Marfisi about how
2 to invest your money?

3 A. There were a number of times we had
4 talked on the phone about him doing investments
5 and things, but I don't know exactly what month
6 or --

7 Q. Sure.

8 A. -- or the dates but it was a number
9 of times that we had talked.

10 Q. More than five?

11 A. Yeah.

12 Q. More than ten?

13 A. I doubt that.

14 Q. So somewhere between five and ten
15 times --

16 A. Yes.

17 Q. -- you and Mr. Marfisi discussed
18 what to do with your \$19,000?

19 A. Yes.

20 Q. Do you still live at the Laidlaw
21 Avenue address?

22 A. Yes.

23 Q. Do you own that property now or are
24 you still leasing it?

25 A. No, it's in my name.

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1 Q. When did you purchase that
2 property?

3 A. June of last year.

4 Q. June of 2000?

5 A. Yes.

6 Q. Were you current in your rent at the
7 time that you purchased the property?

8 A. Yes.

9 Q. Had there been an eviction filed
10 against you at any time between the closing and
11 June of 2000?

12 A. No.

13 Q. Had you always kept up with your
14 rent payments between the closing and June of
15 2000?

16 A. No.

17 Q. Was there any time that you were
18 more than one month in default of rent?

19 A. Yes, I got behind \$600.

20 Q. How many months would that be, three
21 months?

22 A. Three.

23 Q. And no eviction was filed against
24 you at that time?

25 A. No.

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1 Q. You worked that out with Mr.
2 Bigelow?

3 A. Yes.

4 Q. And then in June of 2000 you
5 purchased the property. How did you come about
6 doing that?

7 A. He gave me the, Bigelow gave me the
8 name of McKinley Mortgage that talked to them.

9 Q. How did you determine a purchase
10 price for the property?

11 A. The purchase price came up with the
12 appraisal that whatever, whatever appraisal
13 price of the house.

14 Q. How much did you purchase the
15 property for?

16 A. I think it was like 65,000.

17 Q. And you financed it through McKinley
18 Mortgage?

19 A. I went through McKinley Mortgage,
20 the bank is First Franklin, it's called, Option
21 One.

22 Q. Ms. Bryant, I have received some
23 responses to interrogatories from the Burbrinks
24 and I'm going to read a response from the
25 interrogatories that refers to you in your

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1 testimony.

2 A. From who?

3 Q. From the Burbrinks.

4 A. Who are they?

5 Q. Do you know Mark and Michael
6 Burbrink?

7 A. No. I'm asking who they are.

8 MR. SCHWANTES: He asks the
9 question, you get to answer.

10 BY MR. LABER:

11 Q. Those are the people that are
12 involved in the lawsuit with Mr. Bigelow whose
13 deposition you are involved with today, for
14 which your deposition is being taken today.

15 A. Okay.

16 Q. Now, do you know who they are?

17 A. Huh-uh.

18 Q. And what I'm suggesting to you,
19 ma'am, is that I have an eye disorder and I
20 read with a speed and accuracy of a first
21 grader. I'm going to read it to you, but it's
22 going to be disjointed and slow when I read out
23 loud. Please bear with me, all right?

24 The question is asking the
25 Burbrinks to identify the witnesses that they

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1 are going to have at trial and talk about the
2 subject matter and it lists Shirley Bryant and
3 it says this witness who was victimized by the
4 same scheme as that perpetrated against the
5 defendants. Do you know what scheme that you
6 were victimized by?

7 A. (Indicating.) Not receiving 19,000.

8 Q. Not receiving the \$19,000? So you
9 believe the Burbrinks were also victims of not
10 receiving payment on a promissory note?

11 A. I don't know about them. I've never
12 met them.

13 Q. It also says, will describe her
14 solicitation by Roseann Christian, you've done
15 that, correct?

16 A. Yes.

17 Q. The scheme and its impact on her.
18 So can you describe the scheme and its impact
19 on you?

20 A. The only scheme that I think I had
21 is I did not receive 19,000. I got the
22 run-around from the lawyer, from John Marfisi,
23 about who was going to pay me 19,000.

24 Q. So it would have nothing to do with
25 the original transaction for the purchase of

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1 the property by Mr. Bigelow and the lease back
2 to you and all of that? You don't consider
3 victimized by all of that; is that correct?

4 A. The other thing is that at that time
5 my house had equity in it. Now my house has no
6 equity in it. I only owed 11,000 on it and I
7 didn't get anything.

8 Q. And is that as a result of that
9 \$19,000 not being paid to you?

10 A. Well, for my thinking, I should have
11 gotten more than 19,000. The equity that was
12 in my house with me only owing 11,000 on it.

13 Q. So, again, when we talk about you
14 being victimized by the same scheme and the
15 impact of this scheme, what are we referring to
16 as this scheme?

17 A. I have, that was the only scheme
18 that I had was not being paid the money that
19 was --

20 Q. She's leaning forward and so am I
21 waiting for you to finish your sentence. That
22 was?

23 A. -- owed to me.

24 Q. The \$19,000 that was owed on the
25 promissory note?

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1 A. Yeah.

2 MR. LABER: If I could just have
3 a second with Pete.

4 (WHEREUPON, a recess was taken.)

5 MR. LABER: I have no more
6 questions, thank you.

7 THE WITNESS: I'd like to
8 clarify one thing.

9 MR. LABER: I have no more
10 questions.

11 MR. SCHWANTES: I have a
12 question. Are we back on the record?

13 DIRECT EXAMINATION

14 BY MR. SCHWANTES:

15 Q. We talked a lot about the 19,000.
16 Did Pete Bigelow ever pay you the 19,000?

17 A. No.

18 Q. Did John Marfisi ever pay you the
19 19,000?

20 A. No.

21 Q. Did you lose, you talked about
22 equity in your house, did you lose equity in
23 your house?

24 A. Yes.

25 Q. Was that as a result of the

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1 transaction with Pete Bigelow?

2 A. Yes.

3 MR. LABER: I'm going to
4 object. She's your witness and I'm objecting
5 to the leading questions. If you are going to
6 testify you are going to have to raise your
7 right hand and swear to testify. You can't
8 lead your own witness.

9 BY MR. SCHWANTES:

10 Q. What was the scheme that you were
11 victimized by?

12 A. Not receiving the 19,000. I didn't
13 get the equity on my house when I sold it to
14 Bigelow by me only owing 11,000 on it and that
15 I put a roof on my house and I had to pay for
16 it when Bigelow owned it, which cost \$800, and
17 I don't think that should have been on me by
18 him being the owner at the time and I was just
19 renting.

20 MR. SCHWANTES: I don't have any
21 other questions.

22 MR. LABER: I do.

23 RECROSS EXAMINATION

24 BY MR. LABER:

25 Q. Before you just gave that new

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1 answer, did you talk with your attorney?

2 A. (Witness shakes head.) Not about
3 this.

4 Q. You didn't discuss this at all with
5 your attorney?

6 A. No.

7 Q. Just now?

8 A. No.

9 Q. Just out of the clear blue sky you
10 remember this stuff off the top of your head
11 and he brought this up?

12 A. No, I was going to tell you about
13 that in the beginning because I didn't think it
14 was right. You didn't say anything about what
15 was it or what wasn't it. It is like why
16 should I buy a house from somebody and I tell
17 them, he's the landlord and I'm paying him
18 rent, that the roof is leaking, okay, now, the
19 roof leaking, why do I have to pay \$800.

20 He owns the house, I haven't
21 bought it back. If I hadn't bought the house
22 back then the roof would have been on me. It's
23 just like if you buy a house from me you come
24 and tell me that the roof is leaking, then you
25 want me to fix it before you purchase it.

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1 Q. What time did you ask Mr. Bigelow to
2 fix the roof on your house?

3 A. It had to be just, I think we closed
4 in June. So it had to be around April or May,
5 somewhere in there.

6 Q. April or May of 2000?

7 A. Yes.

8 Q. And how did you communicate that to
9 him?

10 A. I called him on the phone and told
11 him that the roof was leaking and that at the
12 closing I had handed him \$800.

13 Q. At what closing?

14 A. The closing for the house when I
15 bought the house back.

16 Q. You notified him in May of 2000 that
17 the roof was leaking and then in June of 2000
18 you bought the house back?

19 A. Yes.

20 Q. And were you paid to have the roof
21 fixed out of that closing?

22 A. No.

23 Q. You said something --

24 A. I paid for it.

25 Q. You said something about \$800?

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1 A. I paid him \$800.

2 Q. You paid him \$800?

3 A. I paid Bigelow \$800.

4 Q. For what?

5 A. The roof to be fixed on my house.

6 Q. When did you do that?

7 A. Just before the closing in 2000, in
8 May. When the mens came out they fixed the
9 roof. They fixed the pipe that was broke in my
10 front yard which is costing me \$900. Now
11 that's broke again.

12 Q. Did you bring this up at the
13 closing?

14 A. Yeah, it was brought up I had to pay
15 him \$800.

16 Q. Who did the closing for this
17 property?

18 A. We did it at McKinley Mortgage with
19 the lady from First Franklin or Option One or
20 whatever they call it.

21 Q. And did you sign off on the
22 settlement statement that said that you were
23 paying him \$800?

24 A. I can't remember if that's in the
25 paper that was put in or not.

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